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PUBLICATION

Dual Citizens Require Canadian Passports as of November 10, 2016

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As of November 10, 2016, dual citizens who hold Canadian citizenship, as well as some other foreign citizenship, will need to present their Canadian Passport at the time of entry into Canada, if they are travelling by air. However, this change was not well publicized and many dual citizens are now scrambling to obtain Canadian Passports before the deadline.

This new Canadian Passport requirement arises from the Electronic Travel Authorization ("eTA") program, which was established in 2015. Although the eTA program was supposed to become effective on August 1, 2015, the Canadian Government previously announced a "leniency period," which delayed its implementation. This leniency period was due to expire on October 1, 2016, but has now been extended until November 9, 2016.

The eTA program is an air-travel screening process for citizens of visa-exempt countries, who may travel to Canada without first obtaining a Canadian Temporary Resident Visa. The program is similar in many ways to the Electronic System for Travel Authorization ("ESTA") program, which is used by the United States Government. Foreign nationals seeking to enter the United States under that country's Visa Waiver Program must first obtain authorization under ESTA. However, unlike ESTA, the eTA requirement only applies to foreign nationals travelling to Canada by air.

The reason why dual citizens will no longer be able to travel to Canada by air after November 9, 2016, using their non-Canadian Passport, is that an eTA will be required in such cases. However, the eTA system was set up to screen foreigners entering Canada on a temporary basis; it cannot be used by Canadian citizens. Since Canadian citizens cannot obtain an eTA, they cannot rely on the visa-exemption normally available to citizens of their other country of nationality.

Although this new requirement could inconvenience many dual citizens, there are some significant exceptions:

- Dual U.S.-Canadian citizens will be exempt from Canadian Passport requirement. This is because U.S. citizens are also exempt from the eTA requirement. Since a dual U.S.-

Canadian citizen may enter Canada using his or her United States Passport without the need for an eTA, this is still permitted.

- As mentioned above, the Canadian Passport requirement will only apply to dual citizens who are travelling to Canada by air, since the eTA program does not apply to travel by land or by sea. So a Canadian-UK dual citizen could still fly to Buffalo, New York, and then drive across the land border into Canada using their UK Passport.

If neither of the above exceptions applies, a Canadian dual national will require valid proof of Canadian citizenship if they wish to travel to Canada (by air) on or after November 10, 2016. Acceptable proof of Canadian citizenship would include:

- A valid Canadian Passport;
- A valid Canadian Temporary Passport; or
- A valid Canadian Emergency Travel Document.